

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

CLARK E. TAYLOR, D.O.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9705192MED

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

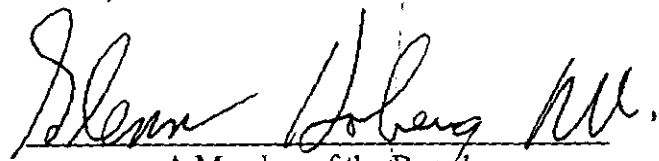
ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 18th day of September 1997.


A Member of the Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
CLARK E. TAYLOR, D.O.,
RESPONDENT.

PROPOSED DECISION
Case No. LS-9705192-MED

PARTIES

The parties in this matter under section 227.44 of the Statutes and section RL 2.037 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Clark E. Taylor, D.O.
2310 M-119, Condo 20
Petoskey, MI 49770-8917

alternate address:
8470 M-199 #223
Harbor Springs, MI 49740

Disciplinary Authority:

Medical Examining Board
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. This case was initiated by the filing of a complaint (DOE case # 96 MED 328) with the Medical Examining Board on May 19, 1997. A disciplinary proceeding (hearing) was scheduled for July 8, 1997. Notice of Hearing was prepared by the Division of Enforcement of the Department of Regulation and Licensing and sent by certified mail on May 19, 1997 to Mr. Taylor at the address above in Petoskey, Michigan.

B. On June 17, 1997, Mr. Taylor sent a letter to the Administrative Law Judge, from the address above in Harbor Springs, Michigan, in which he stated that he had not had time to retain an attorney, and that he did not have funds to retain an attorney, although he had been represented in other matters by an attorney in Michigan, Martin Breighner III.

C. On June 23, 1997, the Administrative Law Judge wrote to Mr. Taylor, inviting him to provide a telephone number at which he could be reached for the hearing, regardless of whether he retained an attorney.

D. Attorney Steven Gloe of the department's Division of Enforcement contacted Attorney Breighner, who confirmed that he does not represent Dr. Taylor in this action.

E. The disciplinary proceeding was held as scheduled on July 8, 1997. The Medical Examining Board was represented by attorney Gloe. Dr. Taylor did not appear. Mr. Gloe moved that Dr. Taylor be found in default under sec. RL 2.14, Wis. Admin. Code, and the motion was granted. The hearing was recorded. The complaint and the exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. The respondent, Clark E. Taylor, D.O., is licensed to practice medicine and surgery in the state of Wisconsin, under license number 16574, first granted on October 25, 1968.

2. On December 19, 1996, the Michigan Board of Osteopathic Medicine and Surgery imposed discipline on Dr. Taylor's license to practice osteopathic medicine and surgery in that state. Specifically, Dr. Larson's license was revoked. The Michigan board made the following findings of fact:

a. On September 29, 1995, Dr. Taylor was hospitalized at Northern Michigan Hospital in Petoskey, Michigan. On October 20, 1995, he was discharged with a diagnosis of 1) chronic atrial fibrillation, 2) dilated cardiomyopathy, 3) dementia secondary to alcohol abuse, and 4) alcohol hepatitis.

b. On October 20, 1995, due to the severity of his medical condition, Dr. Taylor was admitted directly to Tendercare Nursing Home in Rogers City, Michigan. Dr. Taylor's admitting diagnosis was 1) toxic hepatitis (alcohol), 2) alcoholism, and 3) hepatic encephalopathy. A social worker at Tendercare Nursing Home made several attempts to obtain substance abuse resources for Dr. Taylor, but he refused to follow through with the information provided. Dr. Taylor signed himself out from the nursing home against medical advice on November 8, 1995.

The Michigan Board found that these facts violated the following three sections of the Public Health Code, 1978 PA 368, all of which are grounds for discipline with respect to the practice of osteopathy:

16221(a) A violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition which impairs, or may impair, the ability to safely and skillfully practice the health profession.

16221(b)(ii) Subject to sections 16165 to 16179a, substance abuse as defined in section 6107.

16221(b)(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

CONCLUSIONS OF LAW

- I. The Medical Examining Board is the legal authority responsible for issuing and controlling credentials for the practice of medicine and surgery in this state, under ch. 448, Stats., and it has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., sec. 448.02(3), Stats., and ch. Med 10, Wis. Admin. Code.
- II. The Medical Examining Board has personal jurisdiction over Clark E. Taylor, D.O., based on his holding a credential issued by the board, and based on notice under sec. 801.04 (2), Stats.
- III. Clark E. Taylor is in default, under sec. RL 2.14, Wis. Admin. Code, and the Medical Examining Board may enter an order on the basis of the complaint and other evidence.
- IV. Finding of Fact #2 above constitutes unprofessional conduct, under sec. Med 10.02(2)(q), Wis. Admin. Code, and discipline is appropriate, under sec. 448.02(3)(c), Stats.

ORDER

THEREFORE, IT IS ORDERED that the license issued to Clark E. Taylor, D.O., to practice medicine and surgery in the State of Wisconsin be revoked, effective on the tenth day after this order is signed on behalf of the Medical Examining Board.

IT IS FURTHER ORDERED that Clark E. Taylor pay the costs of this proceeding, as authorized by sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code.

OPINION

This is a disciplinary proceeding conducted under the authority of ch. 227, Stats. and ch. RL 2, Wis. Admin. Code. The Division of Enforcement in the Department of Regulation and Licensing filed a complaint with Medical Examining Board alleging that the respondent, Clark E. Taylor, violated sec. Med 10.02(2)(q), Wis. Admin. Code, in that the Michigan Board of Osteopathic Medicine and Surgery imposed discipline on Dr. Taylor's license to practice medicine in that state. The burden of proof is on the Division of Enforcement to prove the allegations of a complaint by a preponderance of the evidence. Dr. Taylor did not contest the allegations in the complaint, either in a written answer or by appearance at the hearing, and by a preponderance of the evidence the allegation is proven.

Discipline.

The purposes of professional discipline have been set forth in Wisconsin Supreme Court Rule SCR 21.03(5), which states: "Discipline for misconduct is not intended as punishment for wrongdoing, but is for the protection of the public, the courts and the legal profession." The

Wisconsin Supreme Court has extended this in various attorney discipline cases, including Disciplinary Proc. Against Kelsay, 155 Wis.2d 480, 455 N.W.2d 871 (1990), by saying that the protection which it intended for the public, the courts and the legal profession was "from further misconduct by the offending attorney, to deter other attorneys from engaging in similar misconduct and to foster the attorney's rehabilitation." That reasoning has been extended by regulatory agencies to disciplinary proceedings for other professions.

Dr. Taylor did not file a written answer to the complaint, and he did not appear at the hearing. He did send a letter, but the letter did not address the relevant issues of the complaint, nor did it provide information about his current physical and mental status. The board is therefore in the position of making a decision about Dr. Taylor's ability to safely practice medicine without adequate information. Based on the Michigan board's decision, and on the facts underlying that decision, the decision must be that Dr. Taylor cannot safely practice medicine. The discipline imposed must therefore remove Dr. Taylor's right to practice medicine and surgery in the State of Wisconsin, in order to protect the public.

The two practical alternatives are revocation and suspension. Mr. Gloe proposed an indefinite suspension, which could be stayed by the board upon satisfactory proof that Dr. Taylor's mental and physical health, especially with regard to chemical dependency issues, permit him to practice safely. Such an order seems less final than revocation, and it might serve as an incentive to Dr. Taylor to pursue his own rehabilitation. However, the recommendation in this proposed decision is for revocation, for the following reasons:

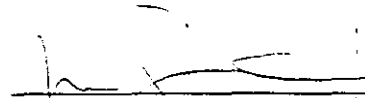
- Under section 448.02(6), Stats., the board may reinstate a revoked license at any time, "on such conditions and terms as it deems appropriate", so that in practice a revocation is no more final than an indefinite suspension.
- If Dr. Taylor petitions for reinstatement, he can be required to provide the board with the same information he would have to supply to have the indefinite suspension stayed.
- Dr. Taylor's license was revoked in Michigan, and revocation here would follow a fairly standard practice of imposing discipline identical to that imposed by the other state.
- Dr. Taylor's failure to cooperate with this proceeding and his failure to communicate in a meaningful way suggest that he is unlikely to take the actions necessary to reinstate his license, and revocation would therefore avoid placing his license into a permanently indefinite status.

Costs.

The assessment of costs against a disciplined professional is authorized by sec. 440.22(2), Stats., and sec. RL 2.18, Wis. Admin. Code, but neither the statute nor the rule clearly indicates the circumstances in which costs are to be imposed. One approach is routinely to impose the costs of investigating and prosecuting unprofessional conduct on the disciplined individual rather than on the profession as a whole. Another approach is to use costs as an incentive to encourage respondents to cooperate with the process, and thus to impose costs only if the respondent is uncooperative or dilatory. Either approach here leads to the same result. Dr. Taylor failed to

cooperate in any way with the Department in this action and failed to appear at the hearing. His lack of cooperation and disregard for these proceedings make an order for costs appropriate.

Dated and signed: July 8, 1997.



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of Disciplinary Proceedings Against

Clark E. Taylor, D.O.,

AFFIDAVIT OF MAILING

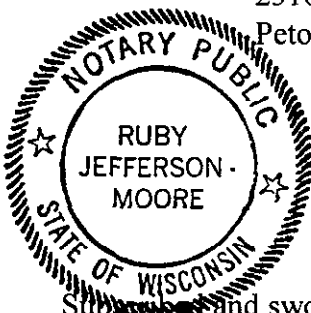
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On September 23, 1997, I served the Final Decision and Order dated September 18, 1997, LS9705192MED, upon the Respondent Clark E. Taylor, D.O. by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 178.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Clark E. Taylor, D.O.
2310 M-119, Condo 20
Petoskey MI 49770-8917



Subscribed and sworn to before me

this 23rd day of September, 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

September 23, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	Case # LS9705192MED
CLARK E. TAYLOR, D.O.,	:	
RESPONDENT.	:	

On September 18, 1997, the Medical Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondent. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on October 2, 1997, the Medical Examining Board received the *Affidavit of Costs* in the amount of \$209.91, filed by Attorney Steven M. Gloe. On September 23, 1997, the Medical Examining Board received the *Affidavit of Costs of Office of Board Legal Services* in the amount of \$112.99, filed by Administrative Law Judge John N. Schweitzer. The Medical Examining Board considered the affidavits on November 20, 1997, and orders as follows:

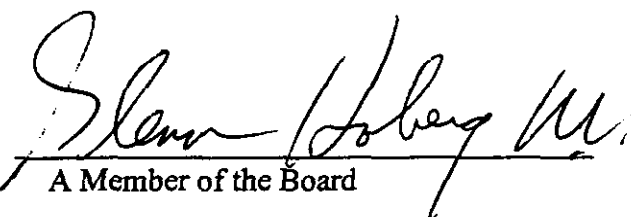
ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$322.90, which is 100% of the costs set forth in the affidavits of costs of Attorney Steven M. Gloe and Administrative Law Judge John N. Schweitzer, which are attached hereto and made a part hereof, are hereby assessed against respondent, and shall be payable by him to the Department of Regulation and Licensing. **Failure of respondent to make payment on or before December 19, 1997, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline.** Under sec. 440.22 (3), Wis. Stats., the Medical Examining Board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached "*Guidelines for Payment of Costs and/or Forfeitures*" should be enclosed with the payment.

Dated this 20th day of November, 1997.

MEDICAL EXAMINING BOARD

By: 
A Member of the Board

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS
AGAINST
CLARK E. TAYLOR, D.O.,
RESPONDENT.

AFFIDAVIT OF COSTS
Case No. LS-9705192-MED

John N. Schweitzer affirms the following before a notary public for use in this action, subject to the penalties for perjury in sec. 946.31, Wis. Stats.:

1. I am an attorney licensed to practice law in the State of Wisconsin, and am employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.

2. In the course of my employment, I was assigned as the administrative law judge in the above-captioned matter.

3. Expenses for the Office of Board Legal Services are set out below:

a. Court Reporter Costs, paid by the Office of Board Legal Services.	\$0.00
b. Administrative Law Judge Expense @ \$28.848/hour.	
5-19-97 Receive complaint, prepare file	5 min.
6-17-97 Receive letter from Dr. Taylor; process	5 min.
6-23-97 Write and send letter to Dr. Taylor	15 min.
7-8-97 Hearing	15 min.
7-8-97 Write proposed decision	3 1/4 hrs.

Total: 3 hrs. 55 min. = \$112.99

Total allocable costs for Office of Board Legal Services = \$112.99


John N. Schweitzer
Administrative Law Judge

Sworn to and signed before me this 23rd day of September 1997.


Notary Public, State of Wisconsin.

My commission is permanent

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

CLARK E. TAYLOR,
RESPONDENT.

AFFIDAVIT OF COSTS
96 MED 328

STATE OF WISCONSIN)
)
COUNTY OF DANE)

Steven Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:
2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and
3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

INVESTIGATOR EXPENSE (KAREN FAHLGREN)

DATE	ACTIVITY	TIME SPENT	
		Hours	Minutes
11/25/96	Telephone contact with witness		.30
11/25/96	Correspondence: Michigan		.30
11/25/96	Correspondence: Missouri		.30
11/25/96	Telephone contact: Michigan		.30
11/26/96	Correspondence		.30
01/22/97	Follow-up with witness		.20
01/29/97	Prepare case summary and send to advisor	1	.00
TOTAL HOURS		3	50

Total investigator expense for 3 hours and 50 minutes
at \$20 per hour (based upon average salary and benefits
for Division of Enforcement Investigative Staff) equals:

\$ 76.66

PROSECUTING ATTORNEY EXPENSE (STEVEN GLOE)

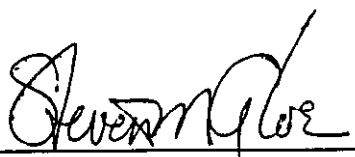
DATE	ACTIVITY	TIME SPENT	
		Hours	Minutes
05/19/97	Review file; prepare Complaint and NOH	1	.15
06/27/97	Review correspondence; draft stipulation	1	.00
07/08/97	Hearing Preparation; attend hearing	1	.00
	TOTAL HOURS	3	15

Total attorney expense for 3 hours and 15 minutes at
\$41 per hour (based upon average salary and benefits for
Division of Enforcement Attorneys) equals:

\$133.25

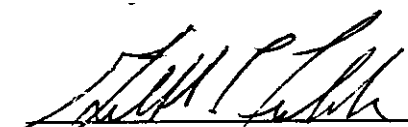
TOTAL ASSESSABLE COST

\$209.91



Steven Gloe, Attorney

Subscribed and sworn to before me
this 2nd day of ~~September~~, 1997.
October



Notary Public
My Commission is permanent.

SG:kcb
R:\ENFORCE\DLG3215.DOC



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

1400 E. WASHINGTON AVENUE
P O BOX 8935
MADISON WISCONSIN 53708-8935
(608) 266-2112

October 6, 1997

CLARK E. TAYLOR, D.O.
2310 M-119, CONDO 20
PETOSKEY MI 49770-8917

RE: In The Matter of Disciplinary Proceedings Against Clark E. Taylor, D.O.,
Respondent, LS9705192MED, Assessment of Costs

Dear Dr. Taylor:

On September 18, 1997, the Medical Examining Board issued an order involving your license to practice medicine and surgery. The order requires payment of the costs of the proceedings.

Enclosed please find the Affidavits of Costs of the Office of Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs of the proceedings is \$322.90.

Under sec. RL 2.18, Wis. Adm. Code, objections to the affidavits of costs shall be filed in writing. Your objections must be received at the office of the Medical Examining Board, Room 178, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before October 18, 1997. After reviewing the objections, if any, the Medical Examining Board will issue an Order Fixing Costs. Under sec. 440.23, Wis. Stats., the board may not restore or renew a credential until the holder has made payment to the department in the full amount assessed.

Thank you.

Sincerely,

Pamela A. Haack
Administrative Assistant
Office of Legal Services

Enclosures

cc: Medical Examining Board
Department Monitor

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Geologists; Professional Engineers; Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary.

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529 impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On September 18, 1997, the Medical Examining Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$322.90 Case #: LS9705192MED

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 322.90

The costs and/or forfeitures are due: December 19, 1997

NAME: Clark E. Taylor, D.O. LICENSE NUMBER: 16574

STREET ADDRESS: 2310 M-119, Condo 20

CITY: Petoskey STATE: MI ZIP CODE: 49770-8917

Check whether the payment is for costs or for a forfeiture or both:

 X COSTS FORFEITURE

Check whether the payment is for an individual license or an establishment license:

 X INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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For Receipting Use Only

Committed to Equal Opportunity in Employment and Licensing+

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

November 24, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

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